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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,516	12/21/2001	Alexander Aulbach	076326-0219	2175
22428	7590	11/24/2003	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			ILAN, RUTH	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 11/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,516

Applicant(s)

AULBACH, ALEXANDER

Examiner

Ruth Ilan

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Election/Restrictions

2. Applicant's election without traverse of Species I- Figures 1-5 and 8 in Paper No. 8 is acknowledged.

Claim Objections

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

There are two instances of "11". Beginning with the second instance of claim 11, misnumbered claims 11-24 been renumbered 12-25.

Drawings/Specification

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because the same reference characters have been used throughout for various clearly different embodiments. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. The specification should also be

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amended to reflect any changes in the drawings. As an example "1" has been used to reference clearly different embodiments of the retaining device.

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the press in rivet or clip of claim 5, and the vehicle door of claims 17 and 22 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 25 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The first step includes "fastening the component to a retaining device" and the second step includes "mounting the retaining device on the component". It appears to be repetitious. The Examiner suspects that step a) was intended to begin "fastening the air bag module..".

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-13, 15 - 23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Dillon (US 5,947,630.) Dillon teaches a system for connecting an air bag module that includes a gas generator retaining element (124a, 124b) to a motor vehicle including an elongated retaining device (70, see Figure 3) that includes an angled receiving portion (74b) and is connected to an air bag module (120, see Figure 7 and col. 3, lines 9-23) and also connected to a backrest of a vehicle seat strut (see col. 1, lines 60-65.) The backrest includes two receiving openings (49, 27.) Opening 49 is an elongated hole. Also taught is one integral hook (82) that hooks into the elongated hole, and an element which is a hole (86) or a clip (308.) Regarding claim 6, as broadly claimed, the element is on an edge "region" (See Figure 4, it is not centered) and is not obstructed by the air bag module, since the clip sticks out of the back of the retainer. The receiving portion or region includes at least one opening (80a) via which the air bag module is fastened. Regarding claims 12 and 13, the retaining device is metal, and thin, so is a sheet. Regarding the limitation in claim 13 "formed as a metal die casting" has been given no patentable weight, since it is directed to the method of forming the device, and as such is not germane to the issue of patentability of the apparatus. Regarding claim 25, the method, as best understood based on the 112 2nd interpretation given above, is taught in col. 3, lines 9- col. 4, line 12.) Regarding claims 17, 18, and 22, Dillon teaches that the system can be used on a door frame (see col. 3, line 40.)

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10. Claims 1- 4, 6-11, 15, 16, 19-21, 23, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Hasegawa et al. (US 5,860,673.) Hasegawa et al. teaches a system for connecting an air bag module that includes a gas generator retaining element (15a) to a motor vehicle including an elongated retaining device (27, see Figures 8 and 9) that includes a receiving portion (27B) and is connected to an air bag module (34) and also connected to a backrest of a vehicle seat. The retaining device is angled in the area of 27B, see Figure 9. The backrest includes two receiving openings (16B and holes through which elements 15 are inserted, see Figure 9) Opening 16B is an elongated hole. Also taught is one integral hook (27A) that hooks into the elongated hole, and an element which is a hole (unnumbered hole through which one of 15 protrudes) Regarding claim 6, as broadly claimed, the element is on an edge "region" (See Figure 9, it is not centered) The receiving portion or region includes at least one opening (other of the holes through which 15 protrudes) via which the air bag module is fastened. Regarding claim 25, the method, as best understood based on the 112 2nd interpretation given above, is taught in col. 3, lines 9- col. 4, line 12.)

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dillon (US 5,947,630) or Hasegawa et al. (US 5,860, 673.) Dillon and Hasegawa et al. are

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discussed above, and Dillon teaches that the retainer is metal, and Hasegawa et al. is silent regarding the materials of construction, and doesn't disclose plastic. It would have been obvious to one having ordinary skill in the art at the time of the invention to substitute plastic for the metal retainer of Dillon, or to form the retainer of Hasegawa et al. from plastic, since it has been held to be within the level of ordinary skill in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Plastic is suitable for the intended purpose because it is often used for air bag components, is inexpensive, strong and lightweight.

13. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hasegawa et al. (US 5,860, 673.) Hasegawa et al. is discussed above, and teaches all elements of the claimed invention, except that the hook does not have an opening towards the bottom. It would have been obvious to one having ordinary skill in the art to make the hook with the opening downward, since such a modification would improve the effect of gravity on the device and provide a securer connection. Additionally, it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kimura et al., Karlow et al., DE 297 16 296 U1, Umezawa et al, Enders, Neag, and Severinski et al. teach air bag installations of interest.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 703-306-5956.

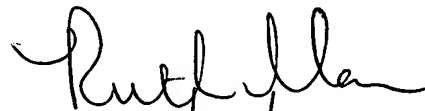
The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

RI
11/14/03

Ruth Ilan
Examiner
Art Unit 3616



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